

**Remarks:**

Applicants respectfully request entry of the above claim amendments. By entry of this amendment, applicants amend claim 1, cancel claim 12, and add new claims 64 and 65. Applicants' cancellation of claim 12 is without prejudice to prosecution in this application or future applications. These amendments do not constitute new matter. They find support in applicants' specification and drawings at Figures 2A, 2B and page 7, lines 1-12. Furthermore, applicants respectfully submit that these amendments do not necessitate an additional search by the Patent Office because they clarify the structure(s) claimed by former claim 12.

Applicants respectfully submit that claim 1, as amended, is distinguishable over the cited prior art for at least the reason that United States Patent 4,795,439 to Guest (Guest), United States Patent 4,681,570 to Dalton (Dalton), United States Patent 4,813,925 to Andersen, Jr. et al. (Andersen), and United States Patent 5,190,520 to Fenton, Jr. et al. (Fenton), taken singly or in combination fail to teach or suggest a limitation claimed in applicants' amended claim 1:

... wherein said first lumen extends distally beyond the distal most part of said second lumen ...

**35 U.S.C. § 103(a)**

***Guest in view of Dalton or Andersen***

Fully responsive to the Office Action of August 4, 2005 (the Office Action), the applicants have amended claim 1 to address the obviousness rejections of claims 1-5 and 7-11, 13-22, 24, and 25-25 based on United States Patent 4,795,439 to Guest (Guest) in view of United States Patent 4,681,570 to Dalton (Dalton), or Guest in view of United States Patent 4,813,925 to Andersen, Jr. et al. (Andersen). It is respectfully submitted that claim 1, as amended, is patentable over these references taken singly or in combination for the reasons set forth below.

The applicants respectfully submit that the present invention, as recited in claim 1, contains a feature which is neither disclosed nor suggested by Guest, Dalton, or Anderson individually or in combination, namely:

"... wherein said first lumen extends distally beyond the distalmost part of said second lumen ..."

This claimed feature, which is illustrated in applicants' Figures 2A and 2B 3, is not taught or suggested by the catheters taught by Guest and Dalton and the stent taught by Anderson. Accordingly, a prima facie case of obvious cannot be made under 35 U.S.C. § 103(a) based on these references. Further, because claims 4-5, 7-11, 13-22, 24, 25, 64 and 64 depend from claim 1, these claims are not subject to this rejection as well.

***Dalton in view of Guest further in view of Fenton***

Claim 12 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Dalton in view of Guest further in view of United States Patent 5,190,520 to Fenton, Jr. et al. (Fenton). Although applicants have withdrawn claim 12, to be fully responsive to the Office Action the applicants traverse this rejection as against any of the claims presently amended for the following reasons.

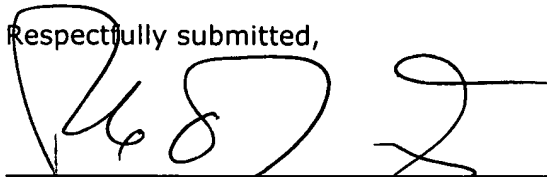
Applicants respectfully maintain their traversal of the Office Action's characterization of Fenton's Figure 1 as teaching that "one lumen extends farther than the other in the distal end of the catheter." Office Action, page 3. Again, applicants respectfully submit that, at best, Figure 1 in Fenton depicts a double lumen catheter incorporating a divider that extends beyond the opposing inflection points of the catheter's tubular outer wall to form a pointed midsection. This may be better understood when read in light of the (albeit scant) Fenton specification which indicates that "[t]he method [of manufacture] may further include the step of shaping the distal end of the catheter to produce a formed tip." See column 3, lines 21-23. The applicants respectfully submit that the best interpretation of the phrase "formed tip" is one having a pointed midsection.

Assuming, *arguendo*, that the drawing in Fenton can be read to show a formed tip in which the end of the catheter is formed such that one of the double lumens has an end plane that is perpendicular to the axis of the lumen and the other lumen has an end plane that is angled relative to the perpendicular end plane of the other lumen, and that such a construction could be interpreted as the lumen having the angled end plane being shorter than the lumen with the perpendicular end plane, the applicant respectfully submits that such a construction does not read on the claims as amended. Even such a reading of Fenton would not constitute a configuration "... wherein said first lumen extends distally beyond the distalmost part of said second lumen ..." because the distalmost point of the lumen with the angled end plane is the intersection between the angled end plane and the perpendicular end plane of the other lumen, which is also the intersection between the septum and the outer periphery of the lumens. Accordingly, the distalmost point of one lumen in Fenton is not located distal of the other one. Because the distal tip disclosed by Fenton does not this limitation, applicants respectfully submit that a *prima facie* case of obviousness cannot be established based on the cited references. Thus, the applicants respectfully submit that this distinction presents a basis for allowing claim 1. Claims 2-5, 7-11, 13-25, 64 and 65 depend directly or indirectly from claim 1 and for at least the reason noted above, are allowable over the cited references.

**Conclusion**

For at least the foregoing reasons, the applicants respectfully submit that pending claims 1-5, 7-11, 13-25, 64 and 65 are allowable over the cited art. A notice to this effect is respectfully requested.

Respectfully submitted,



Rex A. Donnelly, Reg. No. 41,712  
Phillip E. Gonzalez, Reg. No. 55,213  
Attorneys for Applicants

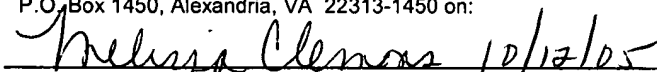
RAD/PEG/mc

Dated: October 12, 2005

P.O. Box 980  
Valley Forge, PA 19482  
(610) 407-0700

The Commissioner for Patents is hereby authorized to charge payment to Deposit Account No. 18-0350 of any fees associated with this communication.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, with sufficient postage, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on:

 10/12/05

MC\_I:\BSI\491US\AMEND\_03 RAD.DOC